

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

P. H. Glatfelter Company,)	
)	
Movant,)	
)	
v.)	No. 15-MC-00046
)	
Windward Prospects Limited,)	
)	
Respondent.)	

APPVION, INC. and)	
NCR CORPORATION,)	
)	
Plaintiffs,)	
)	
v.)	No. 08-CV-00016-WCG
)	[LEAD CASE]
P. H. Glatfelter Co., <i>et al.</i> ,)	
)	
Defendants.)	

**DECLARATION OF FRANCIS A. CITERA IN SUPPORT OF
P. H. GLATFELTER COMPANY'S MOTION TO COMPEL
WINDWARD PROSPECTS LIMITED TO PRODUCE DOCUMENTS
PURSUANT TO GLATFELTER'S DULY SERVED SUBPOENA**

I, Francis A. Citera, of sound mind and full age, hereby state as follow:

1. I am a Shareholder with the law firm of Greenberg Traurig, LLP. I am duly admitted to practice before the United States District Court for the Eastern District of Wisconsin where the underlying civil action is pending, *Appvion, Inc., et al, v. P. H. Glatfelter Co. et al.*, 08-cv-00016-WCG (E.D. Wis.). I am one of the attorneys representing P. H. Glatfelter Company (“Glatfelter”) in the above-captioned case. The following facts are within my personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. Pursuant to Federal Rule of Civil Procedure 37(a) and Civil Local Rule 37, I hereby certify that Glatfelter has attempted to informally resolve the subject matter of these motions with Windward Prospects Limited (“Windward”), including but not limited to, a telephone conference on July 6, 2015 and an email exchange on July 15 and July 16, 2015 notifying Windward’s counsel of Glatfelter’s intent to file a motion to compel and to seek transfer.

3. In 2011, Brian Tauscher, Windward’s Director and General Counsel, testified in the insurance coverage litigation, styled *Columbia Casualty v. Arjo Wiggins Appleton PLC*, No. 05-cv-36 (Wis. Ct., filed Jan. 5, 2005) in Brown County, Wisconsin. Mr. Tauscher testified he is an employee of Windward and Windward has complete discretion to manage the defense of Fox River claims. A true and correct copy of the November 17, 2011 hearing transcript is attached as Exhibit A. A true and correct copy of the October 31, 2011 hearing transcript is attached as Exhibit C.

4. In 2007, Christopher Gower testified during a deposition in the Brown County, Wisconsin insurance coverage litigation. A true and correct copy of the February 21, 2007 deposition transcript is attached as Exhibit B.

5. On March 10, 2015, Appvion, Inc. (“Appvion”) submitted Supplemental Rule 26(a) Disclosures. A true and correct copy of the Disclosures is attached as Exhibit D.

6. Glatfelter prepared a subpoena under Rule 45 of the Federal Rules of Civil Procedure for Windward as a non-party to produce documents, information, or objects, or to permit inspection of a premise in a civil action (“the subpoena”). A true and correct copy of the subpoena is attached as Exhibit E. On June 11, 2015, the subpoena was duly served on Brian Tauscher, Director and General Counsel of Windward. A true and correct copy of the Affidavit of the Special Process Server is attached as Exhibit F.

7. On June 25, 2015, Windward, by its attorneys, Olshan Frome Wolosky LLP, sent Glatfelter’s counsel a letter enclosing Windward’s Response to the subpoena, objecting to “the production of all of the materials described in the Supoena” and indicating Windward “will not be making any production.” A true and correct copy of the letter from Windward’s counsel is attached as Exhibit G. A true and correct copy of Windward’s Response to the subpoena is attached as Exhibit H.

8. On November 14, 2014, Appvion filed a partially-redacted version of the 2014 Funding Agreement as an exhibit to its quarterly filing with the U.S. Securities and Exchange Commission (“SEC”). A true and correct copy of that agreement, as filed with the SEC, is attached as Exhibit I, and is also accessible at:

<https://www.sec.gov/Archives/edgar/data/1166365/000116636514000025/c365->

20140928ex101651b3f.htm. In response to discovery requests, NCR later produced a version of the funding agreement. A true and correct copy of that agreement, as produced by NCR, is attached as Exhibit J.

9. In a letter dated March 4, 2005, Randall Stone on behalf of the Intergovernmental Partnership wrote to Andrew Schlickman, who at the time was active as counsel for NCR and “Appleton Papers,” in response to settlement approaches that had been put forth by NCR and Arjo Wiggins Appleton. This communication was produced by NCR during the course of discovery without redactions, but has been redacted by Glatfelter in order to preserve the confidentiality of its substantive contents. A redacted copy of that letter is attached as Exhibit K.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 31, 2015

Respectfully submitted,

/s/ Francis A. Citera
Francis A. Citera

Certificate of Service

I hereby certify that on August 31, 2015, I electronically filed the foregoing Declaration of Francis A. Citera in Support of P. H. Glatfelter Company's Motion to Compel Windward Prospects Limited to Produce Documents Pursuant to Glatfelter's Duly Served Subpoena with the Clerk of Court for the United States District Court for the Eastern District of Wisconsin by using the Electronic Court Filing System ("CM/ECF"). I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ David G. Mandelbaum
David G. Mandelbaum